Public Law
NEWSLETTER

Res Judicata in Connecticut

Although res judicata and collateral estoppel often appear to merge into one another in practice, analytically they are regarded as distinct. We begin our analysis with the doctrine of res judicata. Because fraud is an exception to res judicata; id., at 600, 922 A.2d 1073; we consider its application to the plaintiff's allegations of breach of contract, breach of fiduciary duties and conversion only.

The doctrine of res judicata provides that "[a] valid, final judgment rendered on the merits by a court of competent jurisdiction is an absolute bar to a subsequent action between the same parties... upon the same claim or demand." (Internal quotation marks omitted.) Gaynor v. Payne, 261 Conn. 585, 595-96, 804 A.2d 170 (2002). It "is fully applicable to judgments and decrees entered in an action for a divorce...." (Internal quotation marks omitted.) Loughlin v. Loughlin, 280 Conn. 632, 645, 910 A.2d 963 (2006), quoting 24 Am. Jur. 2d 572-73, Divorce and Separation § 411 (1998). Res judicata "prevents a litigant from reasserting a claim that has already been decided on the merits.... Under claim preclusion analysis, a claim—that is, a cause of action— includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose.... Moreover, claim preclusion prevents the pursuit of any claims relating to the cause of action which were actually made or might have been made." (Citations omitted; emphasis altered; internal quotation marks omitted.) LaSalla v. Doctor's Associates, Inc., 278 Conn. 578, 590, 898 A.2d 803 (2006). "[T]he essential concept of the modern rule of claim preclusion is that a judgment against [the] plaintiff is preclusive not simply when it is `on the merits' but when the procedure in the first action afforded [the] plaintiff a fair opportunity to get to the merits." F. James & G. Hazard, Civil Procedure (3d Ed. 1985) § 11.15, p. 618. Stated another way, res judicata is "based on the public policy that a party should not be able to relitigate a matter which it already has had an opportunity to litigate.... [W]here a party has fully and fairly litigated his claims, he may be barred from future actions on matters not raised in the prior proceeding." (Emphasis added; internal quotation marks omitted.) Fink v. Golenbock, 238 Conn. 183, 192-93, 680 A.2d 1243 (1996).

"Because [res judicata and collateral estoppel] are judicially created rules of reason that are enforced on public policy grounds; Stratford v. International Assn. of Firefighters, AFL-CIO, Local 998, 248 Conn. 108, 127, 728 A.2d 1063 (1999); we have observed that whether to apply either 776*776 doctrine in any particular case should be made based upon a consideration of the doctrine's underlying policies, namely, the interests of the defendant and of the courts in bringing litigation to a close... and the competing interest of the plaintiff in the vindication of a just claim.... These [underlying] purposes are generally identified as being (1) to promote judicial economy by minimizing repetitive litigation; (2) to prevent inconsistent judgments which undermine the integrity of the judicial system; and (3) to provide repose by preventing a person from being

harassed by vexatious litigation." (Internal quotation marks omitted.) Powell v. Infinity Ins. Co., supra, 282 Conn. at 601, 922 A.2d 1073.

"The doctrines of preclusion, however, should be flexible and must give way when their mechanical application would frustrate other social policies based on values equally or more important than the convenience afforded by finality in legal controversies.... We review the doctrine of res judicata to emphasize that its purposes must inform the decision to foreclose future litigation. The conservation of judicial resources is of paramount importance as our trial dockets are deluged with new cases daily. We further emphasize that where a party has fully and fairly litigated his claims, he may be barred from future actions on matters not raised in the prior proceeding. But the scope of matters precluded necessarily depends on what has occurred in the former adjudication." (Internal quotation marks omitted.) Isaac v. Truck Service, Inc., 253 Conn. 416, 423, 752 A.2d 509 (2000).

This court has adopted a transactional test for determining whether an action involves the same claim as a prior action such that it triggers the doctrine of resjudicata. Powell v. Infinity Ins. Co., supra, 282 Conn. at 604, 922 A.2d 1073. Put simply, we inquire whether the prior and present actions stem from the same transaction. We have looked to 1 Restatement (Second), Judgments (1982), for guidance as to the transactional test: "[T]he claim [that is] extinguished includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose. What factual grouping constitutes a transaction, and what groupings constitute a series, are to be determined pragmatically, giving weight to such considerations as whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage. [Id., § 24, at p. 196].... [The doctrine] applies to extinguish a claim by the plaintiff against the defendant even though the plaintiff is prepared in the second action (1) [t]o present evidence or grounds or theories of the case not presented in the first action, or (2) [t]o seek remedies or forms of relief not demanded in the first action. [Id., § 25, at p. 209.]" (Internal quotation marks omitted.) Duhaime v. American Reserve Life Ins. Co., 200 Conn. 360, 364-65, 511 A.2d 333 (1986). In implementing this test, this court has considered the "group of facts which is claimed to have brought about an unlawful injury to the plaintiff" and has noted that "[e]ven though a single group of facts may give rise to rights for several different kinds of relief, it is still a single cause of action." (Internal quotation marks omitted.) Id., at 365, 511 A.2d 333.

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It is well established that res judicata and collateral estoppel are affirmative defenses that may be waived if not properly pleaded. See, e.g., Wilcox v. Webster Ins., Inc., 294 Conn. 206, 222, 982 A.2d 1053 (2009) ("[c]ollateral estoppel is an affirmative defense that may be waived if not properly pleaded"); Anderson v. Latimer Point Management Corp., 208 Conn. 256, 263, 545 A.2d 525 (1988) (res judicata "a legal doctrine which must be specially pleaded"); Gaer Bros., Inc. v. Mott, 144 Conn. 303, 310, 130 A.2d 804 (1957) ("[r]es judicata must be pleaded in an answer as a special defense"); Sydoriak v. Zoning Board of Appeals, 90 Conn.App. 649, 657, 879 A.2d 494 (2005) (collateral estoppel claim deemed waived due to failure to plead it as special defense); Carnese v. Middleton, 27 Conn.App. 530, 537, 608 A.2d 700 (1992) ("[c]ollateral estoppel, like res judicata, must be specifically pleaded by a defendant as an affirmative defense"); cf. Practice Book § 10-50 ("res judicata must be specially pleaded" as defense). The defendants failed to comply with that requirement.

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